

Subchapter 3. Suspension of Thirty Days or Less

3-1. COVERAGE

a. Employees covered. Subject to the exclusion of certain persons in paragraph 1-2a, this subchapter covers any career, career-conditional, overseas limited, indefinite, or term employee, or any employee serving under a career executive assignment, in a competitive position who is not serving a probationary or trial period; any employee serving in a competitive position who has completed one year of current continuous employment except one serving under a temporary appointment with a definite time limitation → or a limited executive assignment and any ← employee having a competitive status who occupies a position in Schedule B under a nontemporary appointment.

b. Adverse actions covered. This subchapter applies to suspensions of 30 days or less, except where excluded by paragraph 1-2b.

3-2. PROCEDURES

a. Notice of proposed adverse action. An employee against whom adverse action is sought under this subchapter must be given advance written notice stating the reasons, specifically and in detail, for the proposed action.

b. Employee's answer. The employee must be allowed a reasonable time for filing a written answer to the notice of proposed adverse action and for furnishing affidavits in support of his answer. If the employee answers the notice, his answer must be considered by the agency in reaching its decision on the proposed adverse action.

c. Notice of adverse decision. The employee must be notified in writing of the agency's decision at the earliest practicable date. The notice of decision must be delivered to the

employee at or before the time the action will be made effective. It must inform the employee of the reasons for the action taken, of his right of appeal to the appropriate office of the Commission and of the time limit and procedures for making an appeal.

d. Emergency procedures. In an emergency, when circumstances are such that the retention of an employee in an active duty status may result in damage to Government property or may be detrimental to the interests of the Government, or injurious to the employee, his fellow workers, or the general public, the agency may require the employee to answer the notice of proposed suspension and submit affidavits within such time as under the circumstances would be reasonable, but in no less than 24 hours. When these circumstances require immediate action, the agency may place the employee in a nonduty status with pay for such time, not to exceed five days, as is necessary to effect the suspension.

3-3. APPEAL RIGHTS TO THE COMMISSION

a. Right of appeal. The employee may appeal to the Commission, in writing, from the agency's decision to suspend him.

b. Scope of review. (1) *Procedures.* On appeal, the Commission reviews the procedures used in suspensions under this subchapter. Its review does not encompass the merits of the suspension action except as provided in subparagraphs (2) and (3).

(2) *Allegations of discrimination.* When an employee alleges that his suspension was a result of discrimination because of race, color, religion, sex, or national origin, the Commission refers the allegation of discrimination to the agency for investigation of that issue

and a report of that issue to the Commission. When an employee alleges that his suspension was a result of discrimination prohibited by paragraph 1-3b (because of physical handicap, marital status, or political beliefs, affiliations, or activities), the Commission determines the validity of the allegation and takes appropriate action when indicated.

(3) *Emergency suspensions.* When the suspension was imposed during the advance notice period of some other adverse action, the Commission reviews the reasons for not retaining the employee in an active duty status upon review

of an employee appeal from the final adverse action.

c. *Time limit.* An appeal may be submitted at any time after receipt of the notice of adverse decision but no later than 15 calendar days after the effective date of the suspension. This time limit may be extended, at the discretion of the Commission, upon a showing by the employee that he was not notified of the time limit and was not otherwise aware of it, or that circumstances beyond his control prevented him from filing an appeal within the prescribed time limit.